

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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RUI XIANG HUANG, on behalf of herself and  
others similarly situated,

Plaintiff,

- v -

J&A ENTERTAINMENT INC., et al.,

Defendants.  
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**DECISION AND ORDER**

CV-09-5587 (ARR)(VVP)

In accordance with the court's instructions, and having been unable to reach agreement regarding the matter, the parties have each submitted proposed forms of the notice to be provided to the potential plaintiffs who may wish to join this conditionally certified collective action under the Fair Labor Standards Act ("FLSA"). Having reviewed the forms the court adopts the form submitted by the plaintiff, with the following modifications:

1. The language indicating the notice is "From" the plaintiff's counsel is to be deleted;
2. The second paragraph of Section 1 of the notice shall read as follows:

The Class Representative filed this lawsuit pursuant to the federal Fair Labor Standards Act and alleges primarily that Defendants have failed to pay tour guides the minimum wages and overtime compensation required by federal law. Defendants entirely deny any wrongdoing.

3. In the second paragraph of Section 2 of the notice all of the language after the first three sentences is to be deleted. Instead of that language, a third paragraph is to be inserted which reads as follows:

Federal law prohibits Defendants from discharging or in any other manner discriminating against you because you choose to participate in this lawsuit, or because you have exercised

your rights under the Fair Labor Standards Act in any other way.

4. In Section 3, the entire paragraph after the identification of counsel is to be deleted. Section 3 should, however, include the final two paragraphs, i.e., those concerning the “Client Information” form and the self-addressed envelope.
5. Section 4 is to be replaced entirely by two new sections numbered “4” and “5, ” respectively. Section 4 shall be identical to Section 3 of the *Iriarte* notice that was annexed as Appendix C to the plaintiff’s June 30 submission, except that the names of the defendants here should be substituted for those found in the first paragraph, and the name of the form must be changed to “Consent to Sue Under Federal Fair Labor Standards Act” in the second paragraph. New Section 5 shall be identical to Section 4 of the *Iriarte* notice.
6. Section 5 of the plaintiff’s proposal is to be renumbered as Section 6, but not otherwise changed.
7. A new Section 7 shall be added which is in substantially the same form as the Section 7 found in the *Iriarte* notice, modified as necessary to reflect the names associated with the parties and their counsel in this action.
8. The “Consent to Sue Under Federal Fair Labor Standards Act” form shall read as follows:

I am currently, or was formerly, employed by J&A ENTERTAINMENT INC. D/B/A GLOBAL TRAVEL and/or ALXIA ZHAN and/or ALEXIS ZHARI. I consent to be a plaintiff in an action to collect unpaid wages. I understand that by signing this form I am retaining the law firm of Kraselnik & Lee PLLC as my attorneys, and am agreeing to be bound by the terms of the Retainer Agreement signed by the Class Representative.

In addition to the above rulings concerning the form of the notice, the court makes the following determinations concerning the notice and its distribution.

1. The opt-in period will be 120 days after the notices are placed in the mail. The notice should specify the precise date by which the notices are to be returned.

2. The notice is to be distributed both in English and in Chinese.
3. The defendants shall permit the plaintiff's counsel to enter the premises of each business location where tour guides work in order to post the notice (both in English and in Chinese) in a location where it is likely to be viewed by all tour guides.

**SO ORDERED:**

*Viktor V. Pohorelsky*

VIKTOR V. POHORELSKY  
United States Magistrate Judge

Dated: Brooklyn, New York  
July 2, 2010